IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.7442 OF 2004

Om Sai Chhaya Co-operative Housing
Society Limited, through its Chairman
Shri P. S. Ghag : Petitioner

V/s.

The State of Maharashtra & Ors. : Respondents

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Mr.R.S. Apte i/b. Mr.M.S. Lagu for the petitioner.

Mr.A.M. Palekar, Asstt. Govt. Pleader for respondent Nos.1 to 3.

Mr.M. V. Sali with Mr.A.R. Kapadnis for respondent No.4.

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CORAM : S.A. BOBDE, J.

April 4, 2005.

P.C.:

1. The petitioner, Om Sai Chhaya Co-operative Housing Society Limited, is a registered co-operative society. It has, by this petition, challenged the order of the Minister dated 19.8.2004 allowing registration of Shri Vaibhav Co-operative Housing society (Proposed), hereinafter referred to as the "proposed society". The proposed society applied for registration under section 6

of the Maharashtra Co-operative Societies Act, 1960, hereinafter referred to as the "Act", apparently as a society covered by the Slum Rehabilitation Scheme. The petitioner objected. The Deputy Registrar refused registration certificate. Aggrieved thereby, respondent no.4 appealed to the Divisional Joint Registrar who dismissed the appeal.

2. Aggrieved by the dismissal of the appeal, respondent no.4, proposed society, preferred revision before the Minister who has allowed the revision and permitted registration.

3. Mr.Apte, learned counsel for the petitioner, strenuously challenged the order of the Minister. The main challenge is that the registration is contrary to the policy of the Government and, therefore, in violation of section 6 of the Act. The policy is said to be laid down in the Government Resolution dated 11.7.2001. According to the learned counsel, the petitioner-society comprises of 153 slum dwellers whereas the proposed society comprises of only 24 eligible members. According to the learned counsel, this vitiates clause 4 of the Government Resolution dated 11.7.2001 which makes the scheme promulgated by the Government Resolution inapplicable to

25 or less than 25 hutments. This submission cannot be accepted since the Government Resolution ex facie deals with the grant of photo-pass to the hutment dwellers and has no bearing to the registration of the society. It does not expressly, nor impliedly has the registration of a co-operative society of hutment dwellers.

4. The learned counsel further submitted that the registration of two co-operative societies of members under the same Slum Rehabilitation Scheme is undesirable. This submission does not have any merit either, in view of the statement made by the Thane Municipal Corporation by letter dated 11.7.2003 in which it is stated that city survey on which the hutments of the members of the proposed society is situated, the Slum Rehabilitation Scheme cannot be implemented. This fact has been observed by the Minister.

5. Having regard to the fact that the hutments of respondent no.4 are situated on the same land since 1985, the Minister also overruled the objection that the houses of respondent no.4 are constructed contrary to the Coastal Zone Regulations.

6. Mr.Apte, learned counsel for the petitioner, next

contended that the authorities could not have granted registration of the proposed society because their application was made under the Act read with the Slum Rehabilitation Scheme. It appears to be a fact. That the application was made under the Act read with the Slum Rehabilitation Scheme. Admittedly, there is no such Slum Rehabilitation Scheme. This, however, is not determinative of the matter. The authorities have not granted registration to the proposed society as a society of the members whose hutments are situate or covered by the Slum Rehabilitation Scheme. The certificate to that effect annexed at exh.'A' to the affidavit-in-reply of respondent no.4 is clear. In these circumstances, there is no merit in the contention that respondent no.4 society has been registered contrary to any policy directives of the State.

7. In the result, there is no merit in this petition which is hereby dismissed.

Sd/-

S.A. BOBDE, J.